

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 731 of 2000

in

MISC.CIVIL APPLICATION No 1584 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT  
and  
Hon'ble MR.JUSTICE D.P.BUCH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

-----  
DEPUTY EXECUTIVE ENGINEER      SARDAR SAROVAR NARMADA NIGAM  
Versus  
MAHENDRASINH L SOLANKI  
-----

Appearance:

MR BP GUPTA for Appellant  
MR DA SURANI for Respondent No. 1

-----  
CORAM : MR.JUSTICE J.N.BHATT  
and  
MR.JUSTICE D.P.BUCH

Date of decision: 15/11/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

In this Letters Patent Appeal, the appellant-original petitioner has assailed the order of the learned Single Judge recorded on 28.8.2000 in Special Civil Application No.9115 of 2000 and also the Review Application bearing Misc.Civil Application No.1584 of 2000 in the said Special Civil Application, which came to be also rejected by the order of the learned Single Judge dated 27.9.2000, under Clause 15 of the Letters Patent Act, 1865.

2. The respondent is the worker who submitted an application invoking provisions of section 33(c)(2) of the Industrial Disputes Act, 1947, which came to be partly allowed by the Labour Court, Surendranagar in Recovery Application Nos. 522/94 and 94/96. The Recovery Application No.522/94 came to be rejected whereas, Recovery Application No.94/96 was granted whereby, the present appellant-original petitioner, the employer was directed to pay the difference of wages for the period from 1.11.1993 to 30.4,1996 amounting to Rs.13,320/-. The third prayer relating to the claim of bonus came to be rejected by the order of the Labour Court on 17.7.2000, which was challenged by the appellant by filing the aforesaid writ petition, which came to be rejected by the learned Single Judge dated 28.8.2000. It appears from the impugned order that the facts were not disputed, which are specifically mentioned in para 3 that "there is no dispute about the fact that the present appellant had issued orders appointing the workmen in the higher pay scale and the worker was working as a Pump Operator". Obviously, therefore, he was entitled to the grade available to such type of work, pursuant to the order of the appellant.

3. The appellant, again submitted an application for review bearing Misc.Civil Application No.1584 of 2000, which also came to be rejected by the learned Single Judge on 27.9.2000. Hence this Letters Patent Appeal.

4. We have heard Mr B P Gupta, learned Advocate appearing for the appellant, on the points agitated before the learned Single Judge that there was no crystallization of right and, therefore, there was no question of making application for recovery with the help of Section 33(c)(2) of the Industrial Disputes Act. We find that the grounds on which this contention was not accepted by the learned Single Judge, are justified and

nothing has been successfully pointed out, which would warrant interference of this Court against the order of the learned Single Judge, in exercise of powers under Clause 15 of the Letters Patent Act. Incidentally, it may be mentioned on factual aspect that there was no such dispute before the learned Single Judge. On the contrary, it was admitted position that the workman was given order and he was placed in the higher pay scale as Pump Operator and obviously, he was entitled to the amount due and payable under the said order. The petitioner, appellant herein, has admittedly not led any evidence despite the Review Application was filed, and again the Letters Patent Appeal is filed. In our opinion, the present LPA is meritless, bearing in mind, the admitted factual scenario and celebrated principles of law and so far as the jurisdictional seep of the Letters Patent Act is concerned. This LPA, therefore, deserves to be rejected at the threshold and accordingly, it is rejected.

5. We are not passing any specific direction for the compliance of the order of the Labour Court, as on behalf of the appellant, it has been assured that the amount due and payable under the order of the Labour Court shall be paid or deposited before the Labour Court within a period of 15 days from today. We hope and trust that this solemn assurance shall be translated into reality, as assured.

15.11.2000 [J N Bhatt, J.]

msh

[D P Buch, J.]